

6
12-2

1 UNITED STATES DISTRICT COURT (118)
2 DISTRICT OF MASSACHUSETTS
3 CIVIL ACTION NO. 01-10194-DPW
4 - - - - -
5 STEPHEN KEEFE, :
6 Plaintiff, :
7 V. :
8 LOCAL 805, INTERNATIONAL :
9 LONGSHOREMEN'S ASSOCIATION AFL-CIO, :
10 LOCAL 800, LOCAL 799, :
11 Defendants. :
12 - - - - -

13 Deposition of STEPHEN F. KEEFE, a witness
14 called by counsel for the Defendants, taken pursuant to
15 the applicable provisions of the Federal Rules of Civil
16 Procedure, before Rosemary F. Grogan, a Registered
17 Professional Reporter, CSR No. 112993, and Notary
18 Public in and for the Commonwealth of Massachusetts, at
19 the offices of Angoff, Goldman, Manning, Wanger &
20 Hynes, 45 Bromfield Street, Boston, Massachusetts, on
21 Tuesday, January 7, 2003, commencing at 11:40 a.m.
22

23 O'BRIEN & LEVINE COURT REPORTING SERVICES
24 (617) 254-2909

<p>1 APPEARANCES:</p> <p>2 Representing the Plaintiff:</p> <p>3 SCOTT A. LATHROP</p> <p>4 122 Old Ayer Road</p> <p>5 Grafton, MA 01450</p> <p>6 (978) 448-8234</p> <p>7 (Fax) (978) 448-8244</p> <p>8 BY: SCOTT A. LATHROP, ESQUIRE</p> <p>9</p> <p>10 Representing the Defendants:</p> <p>11 ANGOFF, GOLDMAN, MANNING, WANGER & HYNES, P.C.</p> <p>12 45 Bromfield Street</p> <p>13 Boston, MA 02108</p> <p>14 (617) 723-5000</p> <p>15 Fax (617) 742-1615</p> <p>16 BY: JOHN F. McMAHON, ESQUIRE</p> <p>17</p> <p>18 Also present:</p> <p>19 James Langan</p> <p>20 Richard Flaherty</p> <p>21 Timothy Keefe</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 STEPHEN KEEFE, Deponent, having been duly</p> <p>2 sworn, deposes and states as follows:</p> <p>3</p> <p>4 EXAMINATION BY MR. McMAHON:</p> <p>5</p> <p>6 BY MR. McMAHON:</p> <p>7 Q. Mr. Keefe, you are the plaintiff in this</p> <p>8 case?</p> <p>9 A. Yes.</p> <p>10 Q. And what is your present residence address?</p> <p>11 A. 17 Marion Street, Green Harbor,</p> <p>12 Massachusetts.</p> <p>13 Q. What is your current hourly rate as a</p> <p>14 longshoreman?</p> <p>15 A. \$27, I think.</p> <p>16 Q. Is that the top rate?</p> <p>17 A. No.</p> <p>18 Q. Is it close to the top rate?</p> <p>19 A. I don't know what the top rate is.</p> <p>20 Q. And it's about \$27 an hour?</p> <p>21 A. Yes.</p> <p>22 Q. You had previously testified that effective</p> <p>23 as of the date of Exhibit 11 in your deposition, that</p> <p>24 you were only on the payroll of the John T. Clark and</p>
<p>1 INDEX</p> <p>2 WITNESS PAGE NO.</p> <p>3 STEPHEN KEEFE (Vol. II)</p> <p>4 BY MR. McMAHON 4</p> <p>5</p> <p>6 TRANSCRIPT MARKED CONFIDENTIAL</p> <p>7 STEPHEN KEEFE PAGE NO.</p> <p>8 BY MR. McMAHON 24</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 EXHIBITS</p> <p>14 NO. DESCRIPTION PAGE NO.</p> <p>15 19 Notes 13</p> <p>16 20 Letter dated 11/1/01 and 21</p> <p>17 Attachment</p> <p>18 21 1999 W-2 Earnings 23</p> <p>19 22 2001 W-2 Earnings 27</p> <p>20 23 Copy of Container Royalty Check 30</p> <p>21 (Attorney McMahon retained Exhibits)</p> <p>22</p> <p>23</p> <p>24</p>	<p>1 Company on a casual basis as a longshoreman; is that</p> <p>2 correct?</p> <p>3 MR. LATHROP: Objection. Are you asking</p> <p>4 about his memory of his prior testimony --</p> <p>5 MR. McMAHON: Ycs.</p> <p>6 MR. LATHROP: -- or just asking him again?</p> <p>7 MR. McMAHON: I'm asking him again.</p> <p>8 A. Repeat the question.</p> <p>9 MR. McMAHON: Could the question be read</p> <p>10 back, please?</p> <p>11 (Record Read)</p> <p>12 A. For the longshore work, yeah.</p> <p>13 Q. But you were also on the office payroll as</p> <p>14 of May 24, 2000; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And you continue to be on the office</p> <p>17 payroll right up to today?</p> <p>18 A. Correct.</p> <p>19 Q. And you are available to perform such work</p> <p>20 as may be assigned to you by John T. Clark other than</p> <p>21 longshore work?</p> <p>22 A. Correct.</p> <p>23 Q. Have you been paid vacation pay by the</p> <p>24 Boston Shipping Association?</p>

<p>1 A. Yes.</p> <p>2 Q. And for what years were you paid?</p> <p>3 A. Vacation pay, last year, I was paid, and</p> <p>4 one other prior year. I don't know what year it was.</p> <p>5 Q. And was that because you had sufficient</p> <p>6 longshore hours accumulated in a year prior to the year</p> <p>7 of payment that you became entitled to vacation pay?</p> <p>8 A. Yes.</p> <p>9 Q. Did you receive vacation pay in 1999?</p> <p>10 A. I don't know what year it was that I</p> <p>11 received the other vacation pay.</p> <p>12 Q. Mr. Keefe, I show you a document -- I'm</p> <p>13 sorry, I only have one copy available. -- dated</p> <p>14 November 1, 2001, which is a letter from Boston</p> <p>15 Shipping Association to me which includes work records</p> <p>16 of a number of individuals. You are one of the</p> <p>17 individuals.</p> <p>18 And I show you the second page. Does that show</p> <p>19 in 1999, you had 900 plus hours in qualifying vacation</p> <p>20 pay?</p> <p>21 A. Yes.</p> <p>22 Q. And you would have received vacation pay in</p> <p>23 the year 2000; is that correct?</p> <p>24 A. Yes.</p>	<p>1 pays?</p> <p>2 A. Yes.</p> <p>3 Q. In fact, did you ask a business agent for</p> <p>4 Local 805 to intervene on your behalf to the Boston</p> <p>5 Shipping Association to obtain holiday pay?</p> <p>6 A. No.</p> <p>7 Q. Who gave you the holiday paycheck?</p> <p>8 A. The business agent.</p> <p>9 Q. Did you have any prior discussions with the</p> <p>10 business agent about the holiday paycheck?</p> <p>11 A. Yes, I'm entitled to it.</p> <p>12 Q. And were you told you were entitled to it?</p> <p>13 A. Yes.</p> <p>14 Q. And he went and got it for you; is that</p> <p>15 correct?</p> <p>16 A. Yeah, that's what he's supposed to do.</p> <p>17 Q. And did he have to complain on your behalf</p> <p>18 to the B.S.A. that you were eligible for the holiday</p> <p>19 pay?</p> <p>20 A. I was eligible.</p> <p>21 Q. Did he go to the B.S.A. and obtain --</p> <p>22 A. I don't know how that's done.</p> <p>23 Q. But you went and told him you were eligible</p> <p>24 for the holiday pay?</p>
<p>1 Q. You also received another vacation pay</p> <p>2 recently?</p> <p>3 A. This year.</p> <p>4 Q. Were you paid holiday pay?</p> <p>5 A. When?</p> <p>6 Q. This year.</p> <p>7 A. Yes.</p> <p>8 Q. Were you paid holiday pay for the year?</p> <p>9 MR. LATHROP: Can you be specific? When</p> <p>10 you say, This year, are you --</p> <p>11 MR. McMAHON: Strike that. Let me rephrase</p> <p>12 the question.</p> <p>13 BY MR. McMAHON:</p> <p>14 Q. Did you receive holiday pay for holidays in</p> <p>15 the year 2000?</p> <p>16 A. No.</p> <p>17 Q. Did you receive holiday pay for the year</p> <p>18 2001?</p> <p>19 A. No.</p> <p>20 Q. Did you receive holiday pay for the year</p> <p>21 2002?</p> <p>22 A. Yes.</p> <p>23 Q. And was that because you had worked</p> <p>24 sufficient hours in order to be eligible for holiday</p>	<p>1 A. He should have given me a check without me</p> <p>2 going to him and telling him and I was eligible.</p> <p>3 Q. You made a complaint to him?</p> <p>4 A. I didn't complain. I asked him.</p> <p>5 Q. You asked him about it?</p> <p>6 A. Because I was eligible for it.</p> <p>7 Q. And he went and got the holiday pay; is</p> <p>8 that correct?</p> <p>9 A. Who?</p> <p>10 Q. The business agent.</p> <p>11 A. Yes.</p> <p>12 Q. Now, during the year 2000, were you</p> <p>13 disabled from working in the longshore industry?</p> <p>14 A. I had gotten into a car accident.</p> <p>15 Q. Did that car accident occur in the parking</p> <p>16 lot of a hiring hall?</p> <p>17 A. No, I don't think so.</p> <p>18 Q. Did an incident occur in the parking lot of</p> <p>19 a hiring hall in which you required intervention of</p> <p>20 emergency medical technicians?</p> <p>21 A. I don't know what you're talking about.</p> <p>22 Q. Was there an incident in the hiring hall</p> <p>23 parking lot in which public emergency personnel had to</p> <p>24 deal with a condition that you were in?</p>

<p>10</p> <p>1 A. No.</p> <p>2 Q. Mr. Keefe, I would like to show you page 53</p> <p>3 of your deposition on February 6th, 2002. And I want</p> <p>4 you to read at page 53 into the record, lines 7 through</p> <p>5 13.</p> <p>6 MR. LATHROP: I'm sorry, what page was</p> <p>7 that?</p> <p>8 MR. McMAHON: 53, 7 through 13. I want to</p> <p>9 get the transcript so I'll have it for me as well. Off</p> <p>10 the record for a moment.</p> <p>11 (Off Record Discussion)</p> <p>12 MR. McMAHON: Back on the record, please.</p> <p>13 BY MR. McMAHON:</p> <p>14 Q. On page 53 in the prior transcript, I</p> <p>15 asked: But in fact on May 24, 2000, you were working</p> <p>16 as a longshore and also doing other work for</p> <p>17 John T. Clark, isn't that true? Your answer was, Yes.</p> <p>18 You were then asked: Are you still doing work</p> <p>19 for John T. Clark other than longshore work? Your</p> <p>20 answer was, No.</p> <p>21 However, in fact, as of May 24, 2000, and right</p> <p>22 up until today you're on the office payroll of</p> <p>23 John T. Clark; isn't that true?</p> <p>24 A. Yes.</p>	<p>12</p> <p>1 provided through the B.S.A., I.L.A. contracts?</p> <p>2 A. I didn't get a thousand hours. I think</p> <p>3 it's a thousand hours.</p> <p>4 Q. But you still receive the equivalent health</p> <p>5 coverage?</p> <p>6 A. From?</p> <p>7 Q. From John T. Clark and Company.</p> <p>8 A. I don't understand the question.</p> <p>9 Q. Do you receive health insurance from the</p> <p>10 John T. Clark Company?</p> <p>11 A. Yes.</p> <p>12 Q. What is the plan?</p> <p>13 A. I don't know right offhand.</p> <p>14 Q. Is that the same plan that your brother,</p> <p>15 Timothy, is on?</p> <p>16 A. It could be, yes.</p> <p>17 Q. Do you have the card with you?</p> <p>18 A. No.</p> <p>19 Q. Now, at various times you reported to the</p> <p>20 hiring hall in 1998 and 1999. Did you make notes of</p> <p>21 each time you reported to the hiring hall?</p> <p>22 A. Yeah.</p> <p>23 Q. And are those notes part of your production</p> <p>24 of documents earlier in this case?</p>
<p>11</p> <p>1 Q. And you were available to do work as it's</p> <p>2 assigned to you by John T. Clark Company; isn't that</p> <p>3 true?</p> <p>4 A. Yes.</p> <p>5 Q. Again, if you would look at page 54, and</p> <p>6 lines three to four, and it's poorly phrased for which</p> <p>7 I apologize.</p> <p>8 The question reads: Were you still continuing as</p> <p>9 of May 25 to do it, work, for John T. Clark & Sons</p> <p>10 other than longshore work? And your answer was, No.</p> <p>11 Am I correct?</p> <p>12 A. Yes.</p> <p>13 Q. And again, you're on the office payroll of</p> <p>14 John T. Clark for assignments other than longshore work</p> <p>15 even up until today; isn't that true?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware that in order to be in</p> <p>18 Gang 11 you must be working exclusively at the</p> <p>19 longshore pier in Boston?</p> <p>20 A. Yes.</p> <p>21 Q. Now, are you still receiving health</p> <p>22 insurance from John T. Clark and Company?</p> <p>23 A. Yes.</p> <p>24 Q. Are you eligible for the health insurance</p>	<p>13</p> <p>1 A. Whatever you have there. (Indicating)</p> <p>2 MR. McMAHON: May this be marked as -- You</p> <p>3 want to continue with the same numbers?</p> <p>4 MR. LATHROP: Yes, why don't you.</p> <p>5 MR. McMAHON: This will be Deposition</p> <p>6 Exhibit No. 19.</p> <p>7 (Exhibit 19 Marked for Identification)</p> <p>8 BY MR. McMAHON:</p> <p>9 Q. Mr. Keefe, before I inquire, you have a</p> <p>10 document before you and have had it since the</p> <p>11 deposition began.</p> <p>12 Can you identify that document?</p> <p>13 A. It's for my lawyer.</p> <p>14 Q. Can you describe the nature of the</p> <p>15 document?</p> <p>16 A. It's my W-2s.</p> <p>17 Q. And you were requested earlier to produce</p> <p>18 your W-2s; isn't that correct?</p> <p>19 A. I don't remember.</p> <p>20 Q. We'll get to that in a few minutes.</p> <p>21 Mr. Keefe, you have before you Deposition Exhibit</p> <p>22 19. Do you have any other notes other than the notes</p> <p>23 that are reflected in SK 101 through SK 135 concerning</p> <p>24 your appearance for work at the hiring hall?</p>

<p>1 A. No.</p> <p>2 Q. And can we stipulate that these are</p> <p>3 documents that were produced by you in connection with</p> <p>4 the union's request for production of documents, and in</p> <p>5 fact the SK and numbers thereafter are Mr. Lathrop's</p> <p>6 Bates stamp?</p> <p>7 MR. LATHROP: That's my version of the</p> <p>8 Bates stamp, yes.</p> <p>9 BY MR. McMAJON:</p> <p>10 Q. Now, looking again at SK 101 of Deposition</p> <p>11 Exhibit 19, can you tell me the date of that item?</p> <p>12 (Witness reviewing document)</p> <p>13 A. No.</p> <p>14 Q. Is that your handwriting on the item, Kevin</p> <p>15 Manning called; three non-union men before me, lost pay</p> <p>16 in hours?</p> <p>17 A. Yes.</p> <p>18 Q. On each occasion that you lost pay in</p> <p>19 hours, did you make a note?</p> <p>20 A. Yeah.</p> <p>21 Q. And how much pay and how many hours did you</p> <p>22 lose here?</p> <p>23 A. I don't know.</p> <p>24 Q. If you, again, look at SK 103, which is the</p>	<p>14</p> <p>16</p> <p>1 Q. Can you read it?</p> <p>2 A. Yes, it is July 21st, but it could have</p> <p>3 been an old slip that I had in my car.</p> <p>4 Q. So that the comments that are here, are</p> <p>5 not — do not necessarily mean you lost pay on the</p> <p>6 dates that are on the slips; am I correct?</p> <p>7 A. Right.</p> <p>8 Q. If you look at SK 104, it refers to</p> <p>9 non-union men called before me, JS and KM were</p> <p>10 dispatchers; am I correct?</p> <p>11 A. Right.</p> <p>12 Q. And in fact on that day did you get a job?</p> <p>13 A. I don't know.</p> <p>14 Q. And again, this may be something you wrote</p> <p>15 on a slip with something in your car?</p> <p>16 A. Right.</p> <p>17 Q. And has no bearing whatsoever on the date?</p> <p>18 A. On this particular date?</p> <p>19 Q. Yes.</p> <p>20 A. Not that I know of, no.</p> <p>21 Q. And again, if we go to SK 105, that seems</p> <p>22 to be dated February 10, 1999, Non-union man called</p> <p>23 before me, JS and KM were the dispatchers.</p> <p>24 And again, you're telling us, so that I'm clear,</p>
<p>15</p> <p>1 next sheet, would you agree with me that reads July 22,</p> <p>2 1999?</p> <p>3 A. Up there? (Indicating)</p> <p>4 Q. Yes.</p> <p>5 A. Yeah.</p> <p>6 Q. And it states in your handwriting, I</p> <p>7 believe, Lose four hours pay?</p> <p>8 A. I think that's probably — could have been</p> <p>9 an old slip that I had in my car. I don't know if</p> <p>10 that's that particular day or not.</p> <p>11 Q. So it continues to read, Non-union man</p> <p>12 hired before me. He got first gang. So assume on that</p> <p>13 day you got called on the 2nd?</p> <p>14 A. Yes.</p> <p>15 Q. And how many hours would you have worked on</p> <p>16 the 2nd?</p> <p>17 A. Maybe four hours.</p> <p>18 Q. Was that as a fill-in or just a regular</p> <p>19 gang assignment?</p> <p>20 A. Fill-in.</p> <p>21 Q. Now, SK 102, which is actually the third</p> <p>22 sheet of Deposition Exhibit 19, refers to lost eight</p> <p>23 hours pay. Is that July 21, 1999?</p> <p>24 A. I don't know.</p>	<p>17</p> <p>1 that this was a slip which may have been in your car</p> <p>2 and you just made a note on it?</p> <p>3 A. It could have been. This might be the slip</p> <p>4 that I got.</p> <p>5 Q. But you're not sure. Do you know if you</p> <p>6 were hired on February 10th, 1999?</p> <p>7 A. Yeah.</p> <p>8 Q. Look at SK 106. Again this is an</p> <p>9 assignment slip, and it repeats your complaint that a</p> <p>10 nonunion man was hired before me; got the last job.</p> <p>11 So you got a full day's work on that day?</p> <p>12 A. I don't know if I got a full day's work.</p> <p>13 Q. You got a job? Got the last job?</p> <p>14 A. Yeah.</p> <p>15 Q. Go to 107. Called me first. You got a</p> <p>16 job; am I correct?</p> <p>17 A. Yeah.</p> <p>18 Q. 108, which appears to be a February 1999</p> <p>19 date, Got a job; am I correct?</p> <p>20 A. Yeah.</p> <p>21 Q. SK 109, Got a job; am I correct?</p> <p>22 A. What are you asking me?</p> <p>23 Q. Did you get a job on that day?</p> <p>24 A. Yep.</p>

<p>18</p> <p>1 MR. LATHROP: Can we go off the record?</p> <p>2 (Off Record Discussion)</p> <p>3 MR. LATHROP: We can stipulate that on a</p> <p>4 day of assignment sheet that he got a job, he got that</p> <p>5 assignment that day, I can stipulate. We don't need to</p> <p>6 establish that.</p> <p>7 BY MR. McMAHON:</p> <p>8 Q. Now, do these reflect all of the days that</p> <p>9 you appeared looking for work at the hall?</p> <p>10 A. No.</p> <p>11 Q. Do you have any record of the days that you</p> <p>12 appeared looking for work?</p> <p>13 A. No.</p> <p>14 Q. So other than these assignment slips, you</p> <p>15 have no document that you can look at and say, I was at</p> <p>16 the hall, I had my hand up, and I wasn't selected to</p> <p>17 work; am I correct?</p> <p>18 A. No.</p> <p>19 Q. What document do you have?</p> <p>20 A. No, you're asking me if I have any</p> <p>21 documents, I don't.</p> <p>22 Q. So you have nothing to prove when you were</p> <p>23 at the hall?</p> <p>24 A. No.</p>	<p>20</p> <p>1 A. No.</p> <p>2 Q. When you come to the hall and look for work</p> <p>3 as a casual, do you report to anyone?</p> <p>4 A. No.</p> <p>5 Q. Do you just stand there and wait to be</p> <p>6 selected?</p> <p>7 A. Yes.</p> <p>8 Q. Were you often selected during the period</p> <p>9 1998 and 1999 for work?</p> <p>10 A. Yes.</p> <p>11 Q. Did you work 949 in 1999?</p> <p>12 (Witness reviewing document)</p> <p>13 A. Yes.</p> <p>14 Q. How many hours did you work in 2000?</p> <p>15 MR. LATHROP: Let the record reflect</p> <p>16 Mr. Keefe is simply looking at the document you handed</p> <p>17 to him earlier.</p> <p>18 MR. McMAHON: I provided to him.</p> <p>19 A. 466 and a half hours.</p> <p>20 Q. During 2000, you were a member of Gang 12;</p> <p>21 am I correct?</p> <p>22 A. Yes.</p> <p>23 Q. And would you look and see the number of</p> <p>24 hours Brian Manning worked in 2000?</p>
<p>19</p> <p>1 Q. What's the process when you go in the hall</p> <p>2 by which a dispatch slip is filled out?</p> <p>3 A. They call the gangs in, and whatever gang</p> <p>4 you're in, you go to the window and get a job.</p> <p>5 Q. Is there any document which would show that</p> <p>6 on a particular date you were present at the hall</p> <p>7 looking for a job other than a dispatch slip?</p> <p>8 A. No.</p> <p>9 Q. So, in effect, you can't prove the days</p> <p>10 that you were at the hall looking for a job in 1998 or</p> <p>11 1999 --</p> <p>12 MR. LATHROP: Objection.</p> <p>13 Q. -- and didn't get a job?</p> <p>14 MR. LATHROP: Objection to the form.</p> <p>15 MR. McMAHON: I'll restate it.</p> <p>16 BY MR. McMAHON:</p> <p>17 Q. During 1998 and 1999, were there occasions</p> <p>18 when you appeared at the hall and did not get a job?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any record of what those dates</p> <p>21 are?</p> <p>22 A. No.</p> <p>23 Q. Is there any document to your knowledge</p> <p>24 which would show what days you were at the hall?</p>	<p>21</p> <p>1 (Witness reviewing document)</p> <p>2 A. They're not here.</p> <p>3 Q. In the year 2000, did Mr. Manning, Brian</p> <p>4 Manning, work 1100 plus hours?</p> <p>5 A. Yes.</p> <p>6 Q. And in fact, you have priority for</p> <p>7 dispatching over Mr. Manning during the year 2000; is</p> <p>8 that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Now, again --</p> <p>11 MR. LATHROP: Are we going to mark this as</p> <p>12 an exhibit? I think to the extent you are relying upon</p> <p>13 it, I would ask that it be marked as an exhibit.</p> <p>14 MR. McMAHON: Sure; that can be Deposition</p> <p>15 Exhibit 20.</p> <p>16 (Exhibit 20 Marked for Identification)</p> <p>17 BY MR. McMAHON:</p> <p>18 Q. Mr. Keefe, you have before you what is now</p> <p>19 Deposition Exhibit 20. And I believe it shows on its</p> <p>20 second page, your total hours in '01 as 869.5; am I</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. So I take it, you did not make hours for</p> <p>24 vacation or holiday pay in the year 2001?</p>

<p style="text-align: right;">22</p> <p>1 A. Vacation.</p> <p>2 Q. You made vacation, but not holiday; is that</p> <p>3 correct?</p> <p>4 A. Right.</p> <p>5 Q. And that's because you didn't work a number</p> <p>6 of hours? And you can control the number of hours you</p> <p>7 work as a longshoreman by the frequency of your</p> <p>8 appearances at the hall looking for work; isn't that</p> <p>9 true?</p> <p>10 A. Yes.</p> <p>11 Q. How many hours did you work in '02?</p> <p>12 A. I don't know. I don't have that.</p> <p>13 Q. Was it fewer hours than you worked in '01?</p> <p>14 A. I don't know. I don't have the -- I don't</p> <p>15 know how many hours I worked.</p> <p>16 Q. But in '01, you were worked fewer hours</p> <p>17 than Brian Manning; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Yet, you have a priority in '01 over</p> <p>20 dispatch as between you and Brian Manning; isn't that</p> <p>21 correct?</p> <p>22 A. Yes, but Brian Manning could have got phone</p> <p>23 calls after everybody left or whatever -- however, it</p> <p>24 works down there.</p>	<p style="text-align: right;">24</p> <p style="text-align: center;">CONFIDENTIAL</p> <p>1</p> <p>2</p> <p>3 BY MR. McMAHON:</p> <p>4 Q. Mr. Keefe, in 1998, you received a W-2 from</p> <p>5 John T. Clark & Son showing Social Security wages of</p> <p>6 \$12,375.04.</p> <p>7 Was that for longshore casual work?</p> <p>8 A. Which one are you referring to? In the</p> <p>9 bottom one or the top?</p> <p>10 Q. This one, the bottom one. (Indicating)</p> <p>11 A. The bottom one is longshore work.</p> <p>12 Q. And again, if I go to the second page,</p> <p>13 which is SK 6, it shows another W-2 from</p> <p>14 I.T.O. Corporation of New England in the amount of</p> <p>15 \$1,658.30. Is that also longshore work?</p> <p>16 A. Yes.</p> <p>17 Q. Now, is ITO Corporation another stevedore</p> <p>18 company?</p> <p>19 A. Yes.</p> <p>20 Q. And John T. Clark and Company was a</p> <p>21 stevedore company?</p> <p>22 A. Yes.</p> <p>23 Q. Now, again, if I look on the top of the</p> <p>24 document, the first page, it also is a W-2 for 1998,</p>
<p style="text-align: right;">23</p> <p>1 Q. But in any event, would that suggest that</p> <p>2 you appeared fewer times looking for work than Brian</p> <p>3 Manning?</p> <p>4 A. No, not necessarily.</p> <p>5 MR. McMAHON: Could this be marked as</p> <p>6 Deposition Exhibit 21, please?</p> <p>7 (Exhibit 21 Marked for Identification)</p> <p>8 BY MR. McMAHON:</p> <p>9 Q. Mr. Keefe, I show you what has been marked</p> <p>10 as Deposition Exhibit 21, which is marked Confidential,</p> <p>11 April 27, '02, SK 5.</p> <p>12 MR. McMAHON: I assume we can stipulate</p> <p>13 that's your version of the Bates stamp?</p> <p>14 MR. LATHROP: Yes, and we also marked the</p> <p>15 Confidential. So can we mark this part of the</p> <p>16 deposition as being confidential?</p> <p>17 MR. McMAHON: As confidential, and the</p> <p>18 gentlemen will sign a confidentiality agreement and</p> <p>19 I'll give you copies of it.</p> <p>20 MR. LATHROP: That's fine.</p> <p>21 * * *</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">25</p> <p>1 and it shows reported W-2 wages of \$76,362.</p> <p>2 Was that money paid to you as a person on the</p> <p>3 office payroll of John T. Clark during 1998?</p> <p>4 A. Yes.</p> <p>5 Q. Without belaboring the point, let me ask</p> <p>6 you to look at SK 3 of the same exhibit, and that</p> <p>7 reflects a gross pay of, again, \$76,362 reported W-2</p> <p>8 wages, John T. Clark.</p> <p>9 And that's payment to you off the office payroll?</p> <p>10 A. Yes.</p> <p>11 Q. And if I look below, it shows reported W-2</p> <p>12 wages of \$21,579.85 on a W-2 issued from John T. Clark.</p> <p>13 Is that for casual longshore work?</p> <p>14 A. Yes.</p> <p>15 Q. If I look at the 1999 second sheet, it</p> <p>16 refers to a W-2 from I.T.O. Corporation in the amount</p> <p>17 of \$3,678.50.</p> <p>18 And is that for casual longshore work?</p> <p>19 A. Yes.</p> <p>20 Q. So it's fair to say you made approximately</p> <p>21 \$25,000 in longshore work on a casual basis in 1999?</p> <p>22 A. Yes.</p> <p>23 Q. And in addition to that, you were paid</p> <p>24 \$76,362 off the office payroll --</p>

<p>26</p> <p>1 A. Yes.</p> <p>2 Q. -- from John T. Clark?</p> <p>3 A. Yes.</p> <p>4 Q. Again, if I refer to the 2000 W-2 earnings</p> <p>5 summary, the top -- and that's on SK 1 in reverse order</p> <p>6 when it came in.</p> <p>7 That refers, again, to a gross pay of \$76,362 off</p> <p>8 the office payroll? Top of the sheet, sir.</p> <p>9 (Indicating)</p> <p>10 A. Yes.</p> <p>11 Q. It also shows another W-2 from</p> <p>12 John T. Clark and Company with gross pay of \$13,585.50,</p> <p>13 and a second W-2 from L.T.O. showing gross pay of</p> <p>14 \$2603.50.</p> <p>15 Are the \$13,500 figure and the \$2600 figure</p> <p>16 earnings on longshore work on a casual basis?</p> <p>17 A. Yes.</p> <p>18 Q. And you were in Group 12 at that time; am I</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Now, do you have any other W-2s with you?</p> <p>22 A. Yes.</p> <p>23 Q. May I see them, please?</p> <p>24 (witness proffering document)</p>	<p>28</p> <p>1 (Witness reviewing document)</p> <p>2 A. Yes.</p> <p>3 Q. And that's for longshore work?</p> <p>4 A. No.</p> <p>5 Q. What is that for?</p> <p>6 A. Office work.</p> <p>7 Q. Well, if we go to the 2001 sheet, the top</p> <p>8 one that refers to a gross pay of --</p> <p>9 A. No, that's for longshore work.</p> <p>10 Q. That's for longshore work the \$19,400?</p> <p>11 A. Yes.</p> <p>12 Q. And then Northeast P and O Ports, N.E.,</p> <p>13 Inc., is that also longshore work in the amount of</p> <p>14 \$4,421.50?</p> <p>15 A. Yes.</p> <p>16 Q. So in effect, you made approximately</p> <p>17 \$23,000 wages and a \$1,000 in vacation pay, and \$24,000</p> <p>18 in longshore work in 2001; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you were a member of Group 12, Group 11</p> <p>21 during 2001; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Now, at the same time you were getting</p> <p>24 \$76,362 for office work from John T. Clark & Sons; am I</p>
<p>27</p> <p>1 BY MR. McMAHON:</p> <p>2 Q. Do you have your 2002 W-2 statement?</p> <p>3 A. No.</p> <p>4 MR. McMAHON: We'll make copies of this. I</p> <p>5 want to make it an exhibit.</p> <p>6 MR. LATHROP: Obviously, I'm not in a</p> <p>7 position to mark confidential on it.</p> <p>8 MR. McMAHON: We'll treat it the same way.</p> <p>9 I have no problem with that. Okay?</p> <p>10 MR. LATHROP: Okay.</p> <p>11 (Short Recess)</p> <p>12 MR. McMAHON: Can this be marked as</p> <p>13 Deposition Exhibit 22?</p> <p>14 BY MR. McMAHON:</p> <p>15 Q. Mr. Keefe, I show you what has been marked</p> <p>16 as Deposition Exhibit 22. And again, let me ask you to</p> <p>17 turn to the last page.</p> <p>18 In that compilation it refers to a W-2 issued by</p> <p>19 B.S.A. Central Records Bureau, Inc., and wages of</p> <p>20 \$1,000. Do you know what those wages represent?</p> <p>21 A. A vacation check.</p> <p>22 Q. Let's go to the next page. And that's a</p> <p>23 W-2 for the year 2001 from John T. Clark and Company in</p> <p>24 gross pay of \$19,435.74?</p>	<p>29</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. Now, are you still getting medical</p> <p>4 insurance coverage? I may have asked that --</p> <p>5 A. Yes.</p> <p>6 Q. -- from John T. Clark & Son?</p> <p>7 A. Yes.</p> <p>8 Q. Are you a participant in the B.S.A., I.L.A.</p> <p>9 retirement fund?</p> <p>10 A. Yes.</p> <p>11 Q. And for how long have you been a</p> <p>12 participant?</p> <p>13 A. I don't know.</p> <p>14 Q. Had you received container royalty fund</p> <p>15 payments?</p> <p>16 A. Yes.</p> <p>17 Q. You received one payment?</p> <p>18 MR. LATHROP: To date?</p> <p>19 MR. McMAHON: To date.</p> <p>20 A. Three, I think.</p> <p>21 Q. Are you due another one?</p> <p>22 A. Yes.</p> <p>23 Q. Have you gone to someone to complain about</p> <p>24 the fact that you're due one?</p>

<p>30</p> <p>1 A. To complain, no.</p> <p>2 Q. Did you inquire of someone about the</p> <p>3 container royalty fund?</p> <p>4 A. Someone came to me.</p> <p>5 Q. And who came to you?</p> <p>6 A. Bernie O'Donnell.</p> <p>7 Q. And Bernie O'Donnell is the president of</p> <p>8 Local 805?</p> <p>9 A. Yes.</p> <p>10 Q. And he's also the East Coast ACD president?</p> <p>11 A. Yes.</p> <p>12 MR. McMAHON: Well, I want you to look at</p> <p>13 that.</p> <p>14 MR. LATHROP: I think I've seen that.</p> <p>15 MR. McMAHON: I want you to look at that</p> <p>16 again. We'll make a copy of it and make it an exhibit.</p> <p>17 BY MR. McMAHON:</p> <p>18 Q. Mr. Keefe, I'm glad to present you with the</p> <p>19 container royalty fund check.</p> <p>20 A. Thank you.</p> <p>21 Q. In the sum of --</p> <p>22 MR. McMAHON: Let me make a copy of it and</p> <p>23 make that an exhibit as well.</p> <p>24 (Exhibit 23 Marked for Identification)</p>	<p>32</p> <p>1 amount for the period, October 1, 2000 through</p> <p>2 September 30th, 2001; am I correct?</p> <p>3 A. No.</p> <p>4 Q. Would you --</p> <p>5 A. I think it's the year October through</p> <p>6 September 2002.</p> <p>7 Q. October 2001 through September 2002?</p> <p>8 A. Right.</p> <p>9 Q. Now, again, in 2002, you were paid on the</p> <p>10 office payroll of John T. Clark in the amount of</p> <p>11 \$76,000 plus; am I correct?</p> <p>12 A. 2002?</p> <p>13 Q. Yes.</p> <p>14 A. I don't have that in front of me.</p> <p>15 Q. Were you paid that amount?</p> <p>16 A. I don't know.</p> <p>17 Q. Were you paid from the office payroll in</p> <p>18 2002?</p> <p>19 A. Yes.</p> <p>20 Q. And what amount monthly were you paid?</p> <p>21 A. I'll have to check. I don't know.</p> <p>22 Q. Would it be the same monthly amount that</p> <p>23 you were paid in 2001 and 2000?</p> <p>24 A. It might have been. I don't know. I'll</p>
<p>31</p> <p>1 BY MR. McMAHON:</p> <p>2 Q. Mr. Keefe, do you recognize Deposition</p> <p>3 Exhibit 23 as a container royalty fund check?</p> <p>4 A. Yes.</p> <p>5 Q. Would that check bring you up to date on</p> <p>6 all container royalty payments due to you?</p> <p>7 A. Yes.</p> <p>8 MR. McMAHON: And note that I had delivered</p> <p>9 the original check in the amount of -- whatever Exhibit</p> <p>10 23 is, to Mr. Keefe with apologies. We thought it was</p> <p>11 being handled it a different way.</p> <p>12 BY MR. McMAHON:</p> <p>13 Q. Are you paid container royalty funds for --</p> <p>14 in the next year after the year in which they were</p> <p>15 earned?</p> <p>16 A. Yes.</p> <p>17 Q. So the check that is Exhibit 23 reflects</p> <p>18 hours in contract year '01 as opposed to '02; am I</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the contract year is actually October</p> <p>22 through September; am I correct?</p> <p>23 A. Yes.</p> <p>24 Q. So this reflects hours worked in some</p>	<p>33</p> <p>1 have to look.</p> <p>2 Q. Would it be in the same approximation of</p> <p>3 \$76,362 reflected in Exhibit 22, page one?</p> <p>4 A. I'll have to -- when I get home, I'll have</p> <p>5 to look. I'll look and see.</p> <p>6 Q. But we agree that there is another paycheck</p> <p>7 coming to you from John T. Clark in the year 2002,</p> <p>8 other than a check for longshore work?</p> <p>9 A. Another check?</p> <p>10 Q. A paycheck --</p> <p>11 A. No.</p> <p>12 Q. -- off the office payroll?</p> <p>13 A. From 2002?</p> <p>14 Q. Yes.</p> <p>15 A. No.</p> <p>16 Q. So you received -- you were not on the</p> <p>17 office payroll in the year 2002?</p> <p>18 A. Yes.</p> <p>19 Q. You were on the office payroll?</p> <p>20 A. Yes.</p> <p>21 Q. And did you receive a check from the office</p> <p>22 payroll?</p> <p>23 A. Yes, I just don't know how much it was for</p> <p>24 that year.</p>

<p>34</p> <p>1 Q. Was it significantly different than the 2 same office payroll check in prior years? 3 A. I have to check. I don't know off the top 4 of my head. 5 MR. McMAHON: May I have a moment? We may 6 be finished. Let me take a moment and consult. 7 (Short Recess) 8 BY MR. McMAHON: 9 Q. I have a correction to make with respect to 10 Exhibit 23. It is my understanding that this check is 11 for the contract year, October 1, '98 through September 12 30, '99. 13 A. I don't know. I'm just -- I'm just going 14 by what the date is on here. 15 MR. McMAHON: That was my understanding 16 from the business agent. 17 A. Is there any interest on this or anything 18 when was this for? 19 Q. There is going to be battle you should get 20 anything, but we'll face that later. 21 A. What is this for? 22 Q. It's for October 1, '98 through September 23 30, '99. 24 MR. McMAHON: Nothing further.</p>	<p>36</p> <p>1 CERTIFICATION 2 3 I, Rosemary F. Grogan, a Registered Professional 4 Reporter and Notary Public duly commissioned and 5 qualified in and for the Commonwealth of Massachusetts, 6 do hereby certify that STEPHEN KEEFFE came before me 7 this 7th day of January, 2003, at Boston, 8 Massachusetts, and was by me duly sworn to testify to 9 the truth as to his knowledge touching and concerning 10 the matters in controversy in this cause; that he was 11 thereupon examined upon his oath and said examination 12 reduced to writing by me; and that the statement is a 13 true record of the testimony given by the witness, to 14 the best of my knowledge and ability. 15 I further certify that I am not a relative or 16 employee of counsel/attorney for any of the parties, 17 nor a relative or employee of such parties, nor am I 18 financially interested in the outcome of this action. 19 IN WITNESS WHEREOF, I have set my hand and affixed 20 my notarial seal this 11th day of January, 2003. 21 22 Rosemary F. Grogan, RPR 23 CSR No. 112993 24 My Commission Expires: January 29, 2004</p>
<p>35</p> <p>1 MR. LATHROP: I have nothing. 2 (Deposition concluded at 12:50 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p>37</p> <p>1 ERRATA SHEET DISTRIBUTION INFORMATION 2 DEPONENT'S ERRATA & SIGNATURE INSTRUCTIONS 3 4 ERRATA SHEET DISTRIBUTION INFORMATION 5 The original of the Errata Sheet has been 6 delivered to Scott A. Lathrop, Esquire. When the 7 Errata Sheet has been completed by the deponent and 8 signed, a copy thereof should be delivered to each 9 party of record and the Original forwarded to John F. 10 McMahon, Esquire, to whom the original deposition 11 transcript was delivered. 12 13 INSTRUCTIONS TO DEPONENT 14 After reading this volume of your 15 deposition, please indicate any corrections or changes 16 to your testimony and the reasons therefor on the 17 Errata Sheet supplied to you and sign it. DO NOT make 18 marks or notations on the transcript volume itself. 19 Add additional sheets, if necessary. Please refer to 20 the above instructions for errata sheet distribution 21 information. 22 23 24</p>

Stephen Keefe 1/7/2003
Stephen Keefe v. Local 805, et al.

38

1 SIGNATURE PAGE / ERRATA SHEET

2 RE: Stephen Keefe Vs. Local 805, et al.

3 DEPOSITION OF: Stephen Keefe - Vol. II 1/7/03

4 I, STEPHEN KEEFE, do hereby certify that I

5 have read the foregoing transcript of my testimony and

6 it is a true and correct record of my testimony to the

7 best of my knowledge and belief. Any corrections are

8 noted below.

9 PAGE LINE(S) READS SHOULD READ

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 Signed under the pains and penalties of
perjury this _____ day of _____, 2003.

19 _____

20 _____

21 STEPHEN KEEFE DATE

22 _____

23 Subscribed and sworn to before me this

_____ day of _____, 2003.

24 _____

Notary Public

My Commission Expires: _____

11 (Page 38)